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THE SITUATION OF HUMAN RIGHTS IN ESTONIA AND LATVIA

Letter dated 9 July 1993 from the Permanent Representative of Estonia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter dated 9 July 1993, from the Prime Minister of the Republic of Estonia, Mart Laar, addressed to you (see annex I), together with the text of the Law on Aliens, adopted by the Parliament of Estonia on 8 July 1993 (see annex II).

I would appreciate it if you would have the text of the present letter and its annexes circulated as an official document of the General Assembly under item 116 of the preliminary list.

(Signed) Ernst JAAKSON
Ambassador
Permanent Representative of
the Republic of Estonia

* A/48/50.

ANNEX I

Letter dated 9 July 1993 from the Prime Minister of Estonia to the Secretary-General

Estonia, having regained its independence, is restoring its legal system in order to provide the necessary legal framework for the functioning of the State structures and for strengthening the democratic processes.

A new Estonian Constitution was adopted in June 1992. After decades of occupations, the first free elections were held according to provisions of the new Constitution. The world has changed during the last half of the century, and therefore it is not sufficient to re-enforce laws that were enacted prior to 1940. Many new laws have to be adopted that correspond to the requirements of today. One of those laws is the Law on Aliens, patterned on analogous laws in most other States, which was adopted by the Parliament of Estonia on 21 June 1993 and amended on 8 July 1993, following recommendations by the Conference on Security and Cooperation in Europe (CSCE) and the Council of Europe.

The purpose of this law is to legalize the status of aliens residing in Estonia by providing legal and social guarantees for normal and full participation in the society. Systematic policies affecting population transfers during the 51 years of occupation have changed the demographic situation in Estonia. Now, 40 per cent of the people residing in Estonia are citizens of the former Union of Soviet Socialist Republics. Accepting the existing facts, the Estonian Government has chosen a realistic approach for solving the problem and is doing its best to ease their integration into Estonian society. The Government of Estonia believes that, as a precondition for integration, it is important that these people themselves decide whether to opt for Estonian citizenship or for the citizenship of some other State. As to the Estonian Citizenship Law, it has been judged by experts to be one of the most liberal in its requirements. This law provides for naturalization of aliens upon application after completing a two-year residency requirement, followed by a one-year waiting period, and demonstration of knowledge of the Estonian language.

Laws are made to meet present as well as future needs. The Law on Aliens is meant to establish the rights and obligations of all aliens already living in Estonia as well as those who will arrive in the future. Since the Government of Estonia is convinced that the status of all aliens already living in Estonia must be settled under favourable grounds, the Government has adopted supplemental orders that spell out and clarify these grounds. It means that aliens already living in Estonia are guaranteed residence permits and that they have two years to decide whether they want to apply for one.

It is noteworthy that the right to vote in the forthcoming local elections is granted to those aliens who have residence permits. Also, the Constitution of Estonia guarantees aliens the same human rights as its own citizens.

As a former member of the League of Nations and present Member of the United Nations, Estonia wishes to coexist peacefully with all its neighbours. The Government of Estonia invites all Members of the United Nations to acquaint themselves with the Estonian legislation giving basis for further integration of aliens into Estonian society.

ANNEX II

Law on Aliens, adopted by the Parliament of Estonia on 8 July 1993

Proceeding from the rights and liberties arising from the Republic of Estonia Constitution,

considering that universally recognised principles and norms of international law are an inseparable part of the Estonian legal system,

based on the need to provide aliens residing in Estonia with an internationally recognised status and to determine the duties of aliens,

desirous of creating a sense of security, through law, for aliens both temporarily and permanently residing in Estonia, the following Law has been adopted.

Chapter I

GENERAL PROVISIONS

Article 1. Sphere of Regulation

This Law shall regulate the entry of aliens into Estonia, the sojourn, residence and employment of aliens in Estonia and the bases for the legal liability of aliens.

Article 2. Authorised Authorities

The legal procedures stipulated in this Law shall be carried out by state authorities authorised by the Government of the Republic.

Article 3. Alien

(1) For the purposes of this Law, an alien shall be any person who is a citizen of a foreign state or who has been recognised as a stateless person.

(2) The regulations for the sojourn of refugees in Estonia shall be established by a separate law.

Article 4. Permanent Resident

(1) A permanent resident shall be any Estonian citizen residing in Estonia or any alien residing in Estonia, who is in possession of a permanent residence permit.

(2) The definition of a permanent resident for the purposes of this Law shall not extend to legal acts which were adopted prior to the entering into force of this Law.

Article 5. Rights and Duties of Aliens

(1) Aliens in Estonia shall be guaranteed rights and liberties equal to those of Estonian citizens, if not otherwise established in the Constitution, this Law, other laws or Estonia's international treaties.

(2) Aliens shall be guaranteed all rights and liberties arising from the universally recognised norms of international law and international practice.

(3) Aliens in Estonia shall be obligated to respect Estonia's constitutional system and to observe Estonia's legal acts.

Chapter II

IMMIGRATION QUOTA

Article 6. Immigration Quota

(1) The annual immigration quota shall be the immigration quota for aliens into Estonia, which may not exceed 0.1% of the permanent population of Estonia. The immigration quota shall be established by the Government of the Republic, taking into consideration the recommendations of the local government. The Government of the Republic, in individual cases, may exceed the current immigration quota for a specific person, at the expense of the subsequent year's immigration quota.

(2) Every Estonian shall have the right to settle in Estonia outside of the immigration quota.

Chapter III

PASSPORT REQUIREMENTS

Article 7. Identity Documents for Aliens

All aliens entering and sojourning in Estonia must be in possession of a valid passport or other equivalent document. The alien's valid passport or other equivalent document must prove his or her right to sojourn in Estonia.

Article 8. Alien's Passport

(1) An alien's passport may be issued to any alien who is not in possession of a passport or other equivalent document, in accordance with procedures established by the Government of the Republic.

(2) An alien's passport may be issued to any alien sojourning in Estonia, who has the right to a residence permit in Estonia. The validity of the alien's passport must not exceed the validity of the residence permit. Alien's passports shall be valid for a period of up to five years.

(3) The application for an alien's passport shall be made at the same time as the application for a permanent residence permit.

(4) Every alien who does not have the possibility to obtain the passport or other equivalent document of his or her country of origin or of any other state shall have the right to obtain an alien's passport. The standard and conditions and procedures of issue of the alien's passport shall be established by the Government of the Republic.

Chapter IV

VISAS, RESIDENCE PERMITS AND EMPLOYMENT PERMITS

Article 9. General Bases

(1) Aliens shall enter and shall lawfully sojourn in Estonia on the basis of a visa or a residence permit, if not otherwise established in Estonia's international treaties. Aliens shall require an employment permit to work in Estonia.

(2) Aliens shall apply for visas, residence permits and employment permits from Estonia's foreign missions. Exceptions may be made by the Government of the Republic.

(3) Every alien sojourning in Estonia may apply for the extension of a visa, residence permit or employment permit, in accordance with procedures established by the Government of the Republic.

(4) Aliens shall be obligated to exit Estonia upon the expiry or voidance of the visa or residence permit.

(5) Every alien who is lawfully sojourning in Estonia shall have the right to challenge any decision to refuse to extend or to prematurely terminate his or her residence permit or employment permit, as well as any decision for his or her expulsion, in a court of law.

Article 10. Visas

The categories of visas and procedures for issue shall be established by the Government of the Republic. The Government of the Republic shall equally be responsible for the conclusion of treaties on visa-free travel.

Article 11. Residence Permits

Residence permits shall be:
1) temporary, which shall be issued for a period of up to five years;
2) permanent.

Article 12. Bases for the Issue of Residence Permits

(1) A temporary residence permit may be issued to any alien:
1) for employment under an employment contract together with an employment permit;
2) for study in an educational institution, on the application of the educational institution;
3) to settle in Estonia at the residence of an immediate family member;
4) whose lawful income is sufficient to support himself or herself, whereby the following shall be considered as lawful income: income obtained through lawful employment, income obtained through lawful business activities or lawfully owned property, pensions, stipends, support payments, state support payments, including unemployment benefit payments and child support payments, and the guaranteed support of a family member with lawful income in Estonia.

(2) Any alien who is married to a permanent resident of Estonia may be issued a temporary residence permit, which, during the first three years shall be extended annually for each subsequent year, if the marriage is not divorced.

(3) A permanent residence permit may be issued to any alien who has resided in Estonia on the basis of a temporary residence permit for no less than three years during the previous five years, and who has a place of residence and employment or other lawful income sufficient to support himself or herself.

(4) A residence permit shall not be issued to an alien:
1) who has provided false information on an application for a visa, residence permit or employment permit;
2) who does not respect the constitutional system and does not observe the laws of Estonia;
3) whose actions have been directed against the Estonian state and its security;
4) who has committed a criminal offense, for which he or she has been sentenced to imprisonment for a period exceeding one year and who is not considered as rehabilitated with a spent conviction;
5) who is employed or has been employed by the intelligence or security service of a foreign state;
6) who is in the active service of the armed forces of a foreign state, nor to his or her family members;
7) who has served in a career position in the armed forces of a foreign state or has entered the reserve forces or has retired from a career position in the armed forces of a foreign state, nor to his or her family members, who have entered Estonia in conjunction with the service or retirement of a member of such armed forces.

(5) Exceptions may be made for aliens listed in paragraph 4 of this Article, in accordance with procedures established by the Government of the Republic.

Article 13. Employment Permits

(1) An employment permit may be issued to any alien for employment with a specific employer, on the application of the employer, for a period of up to five years.

(2) If a residence permit is issued in conjunction with an employment contract, premature termination of the employment contract with the specific employer shall bring about the voidance of the employment permit and, after three months, of the residence permit.

(3) If the alien has no lawful means of support, the residence permit shall be voided at the same time as the employment permit.

(4) An alien who is in possession of a permanent residence permit shall not require an employment permit.

Article 14. Expiry and Voidance of Residence Permits and Employment Permits

(1) Residence permits and employment permits shall expire on the date of expiry.

(2) A residence permit and employment permit may be voided, if the alien:
1) has provided false information on an application for a visa, residence permit or employment permit;
2) does not respect the constitutional system and does not observe the laws of Estonia;
3) with his or her actions threatens the Estonian state and its security;
4) has committed a criminal offense, for which he or she has been sentenced to imprisonment for a term exceeding one year;
5) enters the service of the armed forces of a foreign state or of the intelligence or security service of a foreign state, or participates in an armed formation or in the activities of an armed formation on the territory of a foreign state, or participates in an unlawful armed formation or its activities in Estonia.

Chapter V

NOTIFICATION AND LEGAL LIABILITY

Article 15. Notification

(1) Every alien shall be obligated to inform state authorities authorised by the Government of the Republic of any of the following circumstances, which serves as a basis for his or her residence permit:
1) a change in his or her permanent residence;
2) premature termination of his or her employment contract;
3) a change to his or her marital status;
4) expulsion from an educational institution or termination of studies.

(2) The following shall be obligated to inform state authorities authorised by the Government of the Republic of the following circumstances regarding an alien:
1) the employer: of the premature termination of the employment contract;
2) the educational institution: of the expulsion of the student, of the completion or termination of studies;
3) legal authorities: of any violation of law within its authority;
4) the courts: of any criminal offense, for which the alien has been sentenced to imprisonment for a period exceeding one year;

5) registry of marital status: of any change to marital status.

Article 16. Legal Liability

(1) Any alien, whose visa or residence permit has expired or has been voided, shall be issued an order to exit Estonia by a state authority authorised by the Government of the Republic.

If the order is not fulfilled, the alien shall be expelled from Estonia.

(2) The order to exit Estonia or the order for expulsion from Estonia may bring about a temporary or permanent ban from entering Estonia.

(3) Any alien who has unlawfully entered or is unlawfully sojourning in Estonia shall be expelled from Estonia.

(4) Any order to exit Estonia or any decision regarding expulsion from Estonia may be challenged in a court of law.

Chapter VI

FINAL PROVISIONS

Article 17. Personal Code

Every alien, whose residence permit is valid for a period exceeding one year, shall be issued a personal code by a state authority authorised by the Government of the Republic.

Article 18. Employees of Foreign Missions

The sojourn of employees of foreign diplomatic missions and consular posts and of their family members shall be regulated by international treaties and other acts of international law.

Article 19. Residence Permits and Employment Permits Issued Prior to the Entering Into Force of This Law

(1) Residence permits and employment permits, which were issued prior to the entering into force of this Law and which are entered in an internal passport of the former Union of Soviet Socialist Republics, shall be valid up to the date of expiry indicated on the permit, however for not more than two years after this Law enters into force.

(2) Residence permits and employment permits with a date of expiry exceeding two years after the entering into force of this Law, and which are entered in an internal passport of the former Union of Soviet Socialist Republics, shall be transferred into a travel passport or an alien's passport.

Article 20. Legal Guarantees for Persons Who Settled in Estonia Prior to July 1, 1990.

(1) All aliens who settled in Estonia prior to July 1, 1990, and who continue to sojourn in Estonia on the basis of permanent registration in the former Estonian SSR shall sustain all rights and duties established in existing legal acts of the Republic of Estonia.

(2) All aliens who settled in Estonia prior to July 1, 1990 and who continue to sojourn in Estonia on the basis of permanent registration in the former Estonian SSR shall be guaranteed the issue of a residence permit and employment permit, if the alien's legal status meets the requirements established in this Law.

(3) All aliens who settled in Estonia prior to July 1, 1990 and who continue to sojourn in Estonia on the basis of permanent registration in the former Estonian SSR shall have the right to challenge any decision to refuse to issue or to extend a residence permit or employment permit in a court of law.

Article 21. Applications for Residence Permits and Employment Permits for Aliens Who Settled in Estonia Prior to July 1, 1990

(1) All aliens who settled in Estonia prior to July 1, 1990 and who continue to sojourn in Estonia, who have permanent registration in the former Estonian SSR, but who lack a residence permit and employment permit for lawful sojourn in Estonia, shall be obligated to file an application for such permits in accordance with procedures established by the Government of the Republic, within one year from the entering into force of this Law.

(2) If an alien who settled in Estonia prior to July 1, 1990 and who continues to sojourn in Estonia with the internal passport of the former Union of Soviet Socialist Republics does not have a travel passport or alien's passport, the residence permit and employment permit, valid for no more than two years from the entering into force of this Law, shall be entered in an internal passport of the former Union of Soviet Socialist Republics, into which a remark shall be entered by an authority of the respective state regarding the current citizenship of the alien, or a remark shall be entered by an Estonian authority that a decision has been made to issue an alien's passport to the alien.

(3) An alien who settled in Estonia prior to July 1, 1990 and who continues to reside in Estonia shall sojourn in Estonia on the basis of permanent registration in the former Estonian SSR until such time as he or she receives a residence permit, however for not longer than two years from the entering into force of this Law.

(4) If an alien, who settled in Estonia prior to July 1, 1990 and who continues to sojourn in Estonia on the basis of registration in the former Estonian SSR, has completed an application for Estonian citizenship and has presented a language examination certificate, within one year from the entering into force of this Law, he or she shall be issued a temporary residence permit until such time as a decision whether to grant citizenship is adopted.

(5) If an alien who applies for citizenship is refused citizenship, the question of his or her lawful sojourn in Estonia, in accordance with this Law, shall be resolved in accordance with procedures established by the Government of the Republic.

(6) All aliens sojourning in Estonia with permanent registration in the former Estonian SSR may apply for a residence permit and employment permit with the state authority authorised by the Government of the Republic outside of the immigration quota.

(7) Any alien stipulated in paragraph 6 of the present Article, who by the prescribed due date has not applied for a residence permit, shall be issued an order to exit Estonia once two years have passed from the entering into force of this Law.

(8) Any alien stipulated in paragraph 6 of the present Article, who within one year from the entering into force of this Law has not applied for an employment permit, shall lose the right to work in Estonia once two years have passed from the entering into force of this Law.

Article 22. Obligation of Local Governments in the Processing of Residence Permits

The local government shall be obligated to monitor that the residence permits of aliens sojourning on the territory of the local government are processed within two years from the entering into force of this Law. If this is not the case, the local government shall be obligated to inform the authorised state authority.

Article 23. Obligation of the Employer in the Processing of Employment Permits

The employer shall be obligated to monitor that the employment permit of every alien in his or her employ is processed within two years from the entering into force of this Law. If this is not the case, the employer shall be obligated to dismiss the alien, whereby the authorised state authority shall be informed.

Article 24. Amendments to Existing Laws

As of the entering into force of this Law:
1) in the title and paragraph 4 of Article 171 of the Code of Administrative Offenses (RT 1992, 29, 396; 1993, 7, 103; RT I 1993, 33, 539), the words "Immigration Law" shall be substituted with the worlds "Law on Aliens", and in paragraphs 1, 2, and 3 of Article 171, the words "work permit" shall be substituted with the words "employment permit", in the corresponding grammatical case.
2) in paragraph 4 of Article 15 of the "Law on Churches and Congregations" (RT I 1993, 30, 510), the words "Republic of Estonia Immigration Law" (RT 1990, 2, 25) shall be substituted with the words "Law on Aliens";
3) the Republic of Estonia Immigration Law of June 26, 1990 (RT 1990, 2, 25) shall be null and void.

Article 25. Entering into Force of this Law

This Law shall enter into force as of the day of its publication in the *Riigi Teataja*.